

AUG 25 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BERNARDA MIRELES-MARTINEZ,

Defendant - Appellant.

No. 05-50343

D.C. No. CR-03-01239-GHK-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. King, District Judge, Presiding

Submitted August 21, 2006**

Before: GOODWIN, REINHARDT, and BEA, Circuit Judges.

Bernarda Mireles-Martinez appeals from the 87-month sentence imposed after her bench-trial conviction for conspiracy to possess with intent to distribute heroin, in violation of 21 U.S.C. § 846; possession with intent to distribute heroin,

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B); and possession with intent to distribute and distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B). We have jurisdiction under 28 U.S.C. § 1291 and affirm.

Mireles-Martinez contends that the district court wrongly denied her a downward adjustment for being a minor participant because it failed to consider her conduct in relation to that of her co-participants in the offense. This contention is belied by the record.

The district court considered, in the larger context of the drug conspiracy, the extent of Mireles-Martinez's involvement as a negotiator for and dealer of significant amounts of narcotics. The district court therefore did not clearly err in concluding Mireles-Martinez was not a minor participant. *See United States v. Rodriguez-Cruz*, 255 F.3d 1054, 1059-60 (9th Cir. 2001).

AFFIRMED.